

TA-MAR LOPER, # 12-A-2718
PLAINTIFF,

V.

DETECTIVE STEPHEN MUNAFI SHIELD NO. 4422
DETECTIVE "JOHN DOE" ROSARIO
DETECTIVE PETER BOHRINGER SHIELD NO 4624
DETECTIVE "JOHN DOE" SPAGNUOLO
SERGANT CHRISTOPHER OWEN TAX REG. NO. 924294
POLICE OFFICER SELINA JONES TAX REG. NO. 915968,
INDIVIDUALLY AND IN THEIR OFFICIAL
CAPACITIES,
DEFENDANTS

15CV 7350

COMPLAINT

CIVIL Action No. _____

JURY TRIAL DEMANDED

2015 SEP 16 A 11:30

RECEIVED
HENRY PROSE
OFFICE

I. Complaint

Plaintiff TA-MAR LOPER, PRO SE, for the complaint states as follows:

II. Parties, Jurisdiction and Venue

- 1) Plaintiff is confined in a State Correctional Institution located at: GREEN HAVEN C.F., Box 4000, STORMVILLE, N.Y., 12582-4000. DIN # 12-A-2718
- 2) Plaintiff, TA-MAR LOPER is, and was at all times mentioned herein, an adult citizen of the United States and a resident of the State of New York.
- 3) DEFENDANT STEPHEN MUNAFI was at all relevant times herein a Detective for the Queens Narcotics Bureau. At: 1 Police Plaza, New York, N.Y. 10007
- 4) DEFENDANT "JOHN DOE" ROSARIO was at all relevant times herein a Detective for the Queens Narcotics Bureau. At: 1 Police Plaza, New York, N.Y. 10007
- 5) DEFENDANT PETER BOHRINGER was at all relevant times herein a Detective for the Queens Narcotics Bureau. At: 1 Police Plaza, New York, N.Y. 10007
- 6) DEFENDANT "JOHN DOE" SPAGNUOLO was at all relevant times herein a Detective for the Queens Narcotics Bureau. At: 1 Police Plaza, New York, N.Y. 10007
- 7) DEFENDANT CHRISTOPHER OWEN was at all relevant times herein a Sergant for the Queens Narcotics Bureau. This defendant supervises the preceding named Detectives.

8) DEFENDANT SELVIA JONES was at all relevant times herein A POLICE OFFICER for the Queens Court. At: 125-01 Queens Blvd., Kew Gardens, N.Y. 11415-1568
9) This action arises under and is brought pursuant to 42 U.S.C Section 1983 to remedy the deprivation, under color of state law, of rights guaranteed by the Fifth, Sixth and Fourteenth Amendments to the United States Constitution. The court has jurisdiction over this action pursuant to 28 U.S.C Sections 1331 and 1333.

10) The cause of action arose in the Southern District of New York. Therefore, venue is proper under 28 U.S.C Section 1331(b).

III. Previous Warrants

11) Plaintiff has filed no other lawsuits dealing with the same facts involved in this action.

IV. EXHAUSTION OF ADMINISTRATIVE REMEDIES

12) This claim is for a denial of the right to a trial and does not involve any prison conditions other than injuries resulting therefrom.

V STATEMENT OF CLAIM

13) At all relevant times herein, defendants were "persons" for purposes of 42 U.S.C. § 1983 and acted under the color of law to deprive Plaintiff of his federal rights, as set forth fully below.

VI STATEMENT OF FACTS

14) On January 22nd, 2011 at 5:05 pm, Plaintiff Tom Lopez, non Plaintiff Edward Muckle and Paul Wiggins were arrested by defendants Detective STEPHEN MURKIN shield no. 4422, DETECTIVE "John Doe" Rosario, DETECTIVE Peter BORRINGER shield no. 4624, DETECTIVE "John Doe" SPAGNUOLO under the supervision of defendant CHRISTOPHER TAX REG. NO. 924294.

15) Munkin also informed and provided information pertinent to the above-described arrest to defendant ~~REDACTED~~ Police Officer SELVIA JONES of the

"Queens Court" section, tax reg. no. 915968.

- 16) On February 22nd, around 5:00 pm, Plaintiff's car pulled over on the corner of 155-st and 116th in Queens, N.Y. engine still running.
- 17) Plaintiff was on his way to his cousin Paul Wiggins house for a short visit having to be to work at 11pm in Manhattan at Penn Station for the Long Island Railroad through FEDCAP/RESID.
- 18) Plaintiff was accompanied by Edward Muckle who is also a relative.
- 19) Unbeknownst to Plaintiff, Paul Wiggins left his house and approached Plaintiff's vehicle on foot through the snow to tell Plaintiff that he could no longer park in the driveway because of the snow.
- 20) While at the vehicle, Paul Wiggins rested both of his arms (in a bent over position) on the edge of Plaintiff's passenger side window door panel and began a conversation with Plaintiff.
- 21) While Paul Wiggins was at the vehicle, Plaintiff never touched his hand, Paul Wiggins never handed Plaintiff anything, accepted any money from him nor did the Plaintiff ever sell anything to him. There was absolutely no physical contact between the two people mentioned in this paragraph at any time.
- 22) Within 10 seconds of Paul Wiggins being at the window, an unmarked dark blue van pulled over in front of Plaintiff's vehicle "Blocking" its path from moving.
- 23) On the van's driver side was "STEPHEN MUNFO" On the passenger side was DETECTIVE "ROSTKIO".
- 24) The NYPD officers simultaneously exited the van hurriedly and approached the Plaintiff's "Blocked In" vehicle. Rostkio to the drivers side and Munfo approached Paul Wiggins.
- 25) Rostkio said "Hey, you look kinda funny making movements in the car".

Plaintiff immediately placed his hands on the steering wheel and replies "I'm just here to see my cousin." "What's the problem Officer?"

26) Munro then said "Step out of the car!" "Both of you" in which there was full compliance. Munro was still standing on the sidewalk next to Paul Wiggins who has stepped away from the vehicle once Munro approached him. Plaintiff and Edward Muckle were now next to Paul Wiggins.

27) Plaintiff was immediately cuffed and placed directly facing the trunk of his vehicle by Munro, not frisked and held by his right arm. At that point, Plaintiff was not told why he was cuffed.

28) Rosario then cuffed Edward Muckle and stood him next to Plaintiff facing the vehicle. Muckle was not told why he was cuffed either.

29) Paul Wiggins was told not to move.

30) Plaintiff is not sure which NYPD used the walkie-talkie to call NYPD to the scene but while Rosario searched the drivers side of the vehicle and Munro searched the passenger side, within 45 seconds to a full minute, "PETER BOHRINGER", "John Doe Spagnuolo" and 2 other NYPD members appeared and parked a unmarked car in the middle of the intersection.

31) Plaintiff never consented to the search of his vehicle.

32) John Doe Spagnuolo pulled Edward Muckle away from Plaintiff towards where the unmarked car was parked and proceeded to go into Muckle's unergangs where contraband was found. A search of Plaintiff's car also revealed contraband.

33) Plaintiff and Edward Muckle were escorted to the unmarked van where another person had already been arrested and seated.

34) Approximately 1 minute later, Paul Wiggins was brought on to the van in handcuffs as well. Plaintiff was driven to the 113th Precinct for processing.

35) BOHRINGER filled out a docket and sworn AFFIDAVIT from informant - non relayed to him by Munro stating that Plaintiff committed the offenses

of Penal Law 220.16-1, Criminal Possession of a controlled substance in the 3rd degree; 220.39, Criminal Sale of a controlled substance in the 3rd degree and 220.03 (10/28/10), Criminal possession of a controlled substance in the 7th degree.

36) In sum, the complaint stated that Plaintiff was seen by MUNAFI having Paul Wiggins a "plastic twist" containing "cocaine."

37) Also, upon approaching Plaintiff's vehicle, Munafu observed Paul Wiggins threw said "twist" back into Plaintiff's vehicle on to the passenger seat area.

38) The complaint goes on to say that Munafu observed and recovered (1) "plastic twist" containing a quantity of cocaine from the passenger seat area of the Plaintiff's vehicle, (1) plastic twists and (3) plastic bags containing cocaine from the front drivers side floor and \$110 dollars in currency.

39) The complaint against Edwards Muckle is word for word with an additional paragraph stating "Defendant PETER BOTRINGER further states that he is further informed by Detective Munafu that he observed and recovered (6) plastic bags each containing a quantity of cocaine from the pants of the defendant" and \$282.00 dollars from Edwards Muckles pockets."

SEE EXHIBITS () (in comparison) Muckles paper didn't state a "sale" to Wiggins.

40) As explained in PAR. (32) of this STATEMENT OF FACTS, EXHIBITS () is a property clerk invoice identifying "John Doe" SAVINOLO as the owner of the property on Edwards Muckles person also including EXHIBIT (). (Prisoner pedigree sheet on Edwards Muckle) The property clerk invoice pg. identifying the (6) plastic bags is endorsed by Sergeant Christopher OWEN.

41) Police Officer Schmitz Jones filled out a deposed and sworn affidavit from information relayed to her by Munafu stating that Paul Wiggins committed the offense of Penal Law 220.03 (10/28/10) criminal possession of a controlled substance in the 7th degree, identifying the time being 5:05 pm, place as SW intersection of 155-st and 116-dr, DATE Friday 22nd, 2011 in the county

of Penal Law 220.16-1 "Criminal Possession of a controlled substance in the 3rd degree"; 220.16-1 "Criminal Possession of a controlled subst

of Queens that Murto seen Paul Wiggins in possession of (1) "twist" of "crack" cocaine. The affidavit also explains that Murto recovered (1) twist of "crack" cocaine from the passenger seat of the defendant's 2001 Volkswagen. No money was recovered from Paul Wiggins. The affidavit never mentioned Plaintiff's name as he was the only person responsible for the vehicle on January 22nd, 2011. SEE EXHIBITS ()

42) EXHIBIT () (Queens County District Attorney Intake Bureau Crime Reports) show that on January 23rd, 2011 at 9:35 AM, the Queens County District Attorney approved the affidavit on account of what Murto relayed to BOTTLINGER and Jones based on the contraband found causing the arrest.

43) It is believed that BOTTLINGER forwarded the arrest reports and required information to the Queens District Attorney's Office for processing the Plaintiff's arrest.

44) On January 23rd, 2011, in Court Part APPL 43, Plaintiff was arraigned as charged for criminal sale and possession of a controlled substance in the 3rd degree and bail was set at 15,000.00 cash or bond (CASE # 2011QN003992)

45) On February 8th, 2011, Plaintiff appeared before the judge still incarcerated and got remanded until the next court appearance of March 9th, 2011.

46) On March 3rd, 2011, Plaintiff posted bail in the amount of \$3,000.00 bond and was released from Rikers Island WBC, charges still pending.

47) On March 7th, 2011, Plaintiff found out that his employment was terminated due to the charges pending against him.

48) On March 9th, 2011, Plaintiff appeared for court and was told about a Grand Jury Hearing through counsel and the case was again adjourned.

49) On a day in June, 2011, at the Grand Jury Proceedings, Murto testifies that he has been with the Queens Narcotics Bureau for "about seven months."

50) He also testifies (Murto) that Plaintiff T-MIN Loper was spotted hav-

ing Paul Wiggins a "small object" containing information given to both defendants BOTTLINGER and JONES of "twist" of "cocaine" and "twist" of "crack cocaine". Munro also testifies after blocking Plaintiff's vehicle and exiting the unmarked VAN on foot, to the passenger side, Paul Wiggins "threw, dropped "something" onto the passenger seat" in which he visibly sat next to Edward Muckles leg and that's how the arrest ensued.

51) The Grand Jury returned a 5 count indictment against the Plaintiff under no. QN10248/11 charging him with Criminal Sale of a Controlled Substance in the 3rd degree (1); Criminal Possession of a Controlled Substance in the 3rd degree (2-3); Criminal Possession of ~~a~~ Controlled Substance in the 4th degree (4) and Criminal Possession of a Controlled Substance in the 5th degree (5) setting a date for Motion Practice and Trial. SEE EXHIBIT () 1st forwarded Exhibit

52) Between September 11th up until November of 2011, Plaintiff made complaints to the Civilian Committee Review Board (CCRB) and Internal Affairs Bureau against defendants DEFECTIVES, MUNRO, ROSSO, ~~BOTTLINGER~~ and SIGNORELLO.

53) Complaint #s 11-508-78 and 11-12783 were concerning the circumstances of Plaintiff's arrest and reason for the search of his vehicle. The complaints and exhibits showed discrepancies in the arrest paperwork between the defendants mentioned, stated Plaintiff never made contact with Paul Wiggins and Wiggins was arrested without committing a crime. The complaints were closed and no wrongdoing was found on the part of the NYPD.

54) On December 1st, 2011, Plaintiff was arrested on separate matters and still remained incarcerated. (Indictment no. 2426/10)

55) Plaintiff was granted a Mapp/Harrity Constitutional Hearing in 2012 where defendant DEFECTIVE MUNRO testifies that "he never saw Plaintiff ~~to~~ not even hand Paul Wiggins anything" and he never really saw if Paul Wiggins

"dropped anything" into Plaintiff's vehicle. Munro also testified that the Plaintiff's vehicle was a "light colored 4 door car" (tan or white) and when shown an allowed exhibit of a complete picture of the actual vehicle, denied that that was in fact the Plaintiff's car which was "grey" in color.

56) Plaintiff, TAY-NA also called defendant Detective Peter Bohringer as a witness who couldn't explain the affidavit discrepancy explained in para. (39-40) of this STATEMENT OF FACTS between Munro and Spagnuolo having contraband and his money on Edward Mackles person.

57) Bohringer also confirmed that at the time of Plaintiff's arrest, he owned a 2 door Grey Volkswagen Cabrio as indicated on other arrest paperwork.

58) Plaintiff's Lawyer submitted a memorandum of law with respect to the MAPP / Fair Trial Hearing and Atty Jennifer Tuberby responded and conceded that the defendant Munro at least had what is known as a "founded suspicion" that criminal activity was afoot at the time Plaintiff was arrested.

59) On or around March 30th, 2012, the Judge denies the suppression motion and set a trial date for May 17th, 2012.

60) On May 17th, 2012, Plaintiff pled guilty to criminal possession of a weapon in the 2nd degree under indictment no. 2426/11 (in which he still remains incarcerated) and receives 7 years determinate with 5 years Post Release Supervision to run concurrent with Criminal Possession of a controlled substance in the 3rd degree under indictment no. 110248/11 and receives 6 years determinate with 1/6 years Post Release Supervision and was sentenced on June 1st, 2012.

61) On March 19th, 2014, the Appellate Division 2nd Department reversed Plaintiff's conviction of May 17th, 2012 and dismissed indictment no. 110248/11 which is the basis for this claim being denial of a right to a fair trial. SEE

██████████ EXHIBIT () 2nd folwthd exhibit

62) The Appellate Division found that when defendants Detectives MUNRO and ROSARIO "Blocked" Plaintiff's car from being able to proceed,

Plaintiff was considered "ARRESTED" from that point on which requires a "Reckonable Suspicion" that Plaintiff was about to commit, was committing or has committed a crime.

63) From the evening of January 22nd, 2011 to March 19th, 2014 is a total of 1,151 days (3 years and 58 days) that include numerous Court appearances and ultimately incarceration based on false information given to the District Attorneys office by said Defendants mentioned in this complaint.

VII PRAYER FOR RELIEF

64) Plaintiff seeks for a judgment in his favor and damages in his favor against all named defendants in this complaint.

65) Plaintiff asks for compensatory damages in the amount of 5 million dollars due to the wrongdoing of the defendants herein mentioned, loss of employment, retirement and wages and even if it is not conceivable that Plaintiff would be relieved from the Long Island Law Rolls, the proper amount of future earnings with that company through FEDCH/NEST and

66) Punitive damages in the amount of \$250,000.00 from each individual defendant due to Mental Segregation, loss of liberty and family ties plus a significant hardship due to Plaintiff being incarcerated. Totaling 6.5 million dollars.

I declare under penalty of perjury that the foregoing is true and correct
Signed this 8th day of September, 2015

Lamar Soper 12-A-2218

12-A-2218

GREENHAVEN C.F.

Box 4000

STORMVILLE, N.Y. 12582-4000

(10)

I declare under the penalty of perjury that on this 14th day of September, 2015, I am delivering this complaint to Prison Authorities to be mailed to the Pro Se Office of the United States District Court for the Southern District of New York.

* Jamie Loper 12-A-2718
TA-MTH Loper SW# 12-A-2718